

1 F.2d 1216, 1219 (9th Cir. 1976) (In discussing Section 1782, the court noted that “Letters
 2 Rogatory are customarily received and appropriate action taken with respect thereto ex parte”);
 3 Frischknecht and Lindsey, *Evidence gathering in aid of foreign proceedings in the US and*
 4 *England*, International Bar Association, August 4, 2021 at [https://www.ibanet.org/evidence-](https://www.ibanet.org/evidence-gathered-foreign-proceedings-US-England)
 5 [gathered-foreign-proceedings-US-England](https://www.ibanet.org/evidence-gathered-foreign-proceedings-US-England) (last visited July 10, 2024). For the reasons stated
 6 herein, the Applicant respectfully request this Court decide this Application on an *ex parte* basis.

7 This Section 1782 request is supported by the accompanying memorandum of points and
 8 authorities, proposed subpoena, exhibits and the Declarations of Mun Hui Kim and Gwang Su
 9 Choi, all of which are filed concurrently herewith.

10 Dated: July 11, 2024

11 STREAM KIM HICKS WRAGE & ALFARO, PC.

12
 13 /s/ 
 14 Eugene Kim

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

The Applicant, a multinational entertainment company with a focus on managing and training K-pop artists, has come under attack by an anonymous individual (“**X User**”) posting false, defamatory and harassing statements on the X platform (formerly known as Twitter) about the Applicant. To address these attacks on the X platform, the Applicant filed a civil lawsuit in the Republic of Korea (“**Korea**”). Unfortunately, without the X User’s personally identifiable information (“**PII**”), the civil court case cannot proceed.

To date, the Applicant’s attempts to locate the identity of this anonymous person(s) through publicly available information have been unsuccessful. Choi Decl. ¶ 10. As a result, the Applicant now seeks the assistance of this Court.

As set forth below, the Applicant satisfies all the statutory requirements under Section 1782, and the discretionary factors weigh in favor of the Court exercising its discretion to grant this Application. Moreover, this Application does not prevent X Corp. from objecting or moving to quash the requests made in the proposed subpoena, which is attached as **Exhibit A**.

II. FACTUAL BACKGROUND

A. Civil Matter in the Republic of Korea

HYBE Co., Ltd. (“**HYBE**”) is a multinational entertainment company established in February 2005 under the laws of Korea and its principal place of business is in Seoul, Korea. Choi Decl. ¶ 3. HYBE is engaged in the entertainment business with a focus on managing and training K-pop singers, operating a record label, a talent agency, a music production company, an event and concert management company, and a music publishing house. *Id.* at ¶ 4. HYBE’s subsidiaries include BIGHIT MUSIC Co., Ltd. (“**BIGHIT MUSIC**”) (formerly Big Hit Entertainment from 2005 to March 2021). *Id.*

An unidentified person(s) using the X handle¹ “@guiltyarchive” published a number of posts about HYBE on the X platform (“**X posts**”) on April 28, 2024. *Id.* ¶ 6, Ex. 1. The X account is active as of July 10, 2024. *Id.* ¶ 6.

¹ An X handle is the username that appears at the end of the user’s unique X URL.

1 The X posts contain false, defamatory and harassing statements about the Applicant. *Id.* ¶
 2 7. These include but are not limited to the following:

3 1. “Hella scary story about HYBE / The name of GFriend² album = Walpurgis Night /
 4 Walpurgis night = day of burning witches / GFriend disbandment date May 1 / LE
 5 SSERAFIM debut May 2 / Witches were burnt (disbanded) and the next day sserafim
 6 (angel) debuted – there is a year gap but just for ease of understanding” (English
 7 translation). *Id.* ¶ 7(a).

8 2. “I’m a reasonable person so if it was a total nonsense, I wouldn’t have even posted it /
 9 [BTS] did their debut showcase in Ilchi Art Hall / ‘Ilchi’ in Inchi Art Hall is related to
 10 DahnWorld³ founder” (English translation). *Id.* ¶ 7(b).

11 These X posts do not currently appear online because the X User appears to have removed them.
 12 *Id.* ¶ 7. Unfortunately, the Applicant cannot prevent the X User from posting the same comments
 13 again, as the X account is still active and the Applicant does not know the X User’s identity.

14 The X User’s posts contain numerous false, defamatory and/or harassing statements
 15 about the Applicant, all of which have inflicted significant reputational harm to Applicant and
 16 constitute torts under Korean civil law. *Id.* ¶¶ 7, 8, 12; Kim Decl. ¶¶ 5-6. Many of the HYBE
 17 artists’ fans are frustrated and upset because they believe these false statements are true. A
 18 number of these fans sent complaint letters and messages to HYBE asking for an explanation and
 19 demanding HYBE to stop forcing religious beliefs on its artists. For example, on May 1 and May
 20 2, 2024, BTS⁴ fans staged a demonstration and placed around 30 condolence wreaths in front of
 21 HYBE headquarters carrying messages such as “Amid endless owner risks, we hope BTS will
 22 part ways with HYBE” (English translation). Choi Decl. ¶ 9.

23 The X User published the posts in Korean and used Korean language words and expressions
 24 that appear to indicate he or she is a native Korean speaker located in Korea, as opposed to a non-
 25 Korean citizen residing outside of Korea. Choi Decl. ¶ 11; Kim Decl. ¶ 4.

26 ² A female K-pop group established by SOURCE MUSIC, which was acquired by HYBE. The group disbanded
 27 in 2021.

28 ³ A meditation entity in Seoul, Korea that is also rumored to be a religious cult. There were false rumors that
 HYBE had ties with DahnWorld. Both entities officially denied such rumors. Choi Decl., fn. 6.

⁴ A boy band established by HYBE.

On July 9, 2024, the Applicant filed a civil lawsuit in Korea against the X User under Korean civil law (“**Civil Matter**”). The Applicant claimed defamation pursuant to Articles 750 and 751 of the Civil Act of Korea. Choi Decl. ¶ 12; Kim Decl. ¶¶ 5-6.

B. Applicant Previously Filed an Ex Parte Application Under § 1782 Based on Criminal Complaint, Which Was Denied.

On May 14, 2024, Applicant previously filed an Ex Parte Application for an Order Pursuant to 28 U.S.C. § 1782 Authorizing Discovery For Use in a Foreign Proceeding, Case No. 3-24-mc-80117 (“first Ex Parte Application”). The first Ex Parte Application was based on a *criminal* complaint that Applicant lodged with the Seoul Yongsan Police Station whereas this Ex Parte Application is based on a *civil* complaint that Applicant filed in Korea. On June 28, 2024, the Court denied the first Ex Parte Application because the Court had concerns about the application of § 1782 in a criminal context.

This Ex Parte Application is distinguishable from the first Ex Parte Application because this Ex Parte Application is based on a civil lawsuit in Korea. The Court in the first Ex Parte Application held that the criminal authorities in Korea should pursue the identity of the anonymous user through the Treaty of Mutual Legal Assistance in Criminal Matters (“MLAT”). However, MLAT is inapplicable here because this Ex Parte Application is based on a civil lawsuit.

C. Applicant Seeks Limited Discovery From X Corp. For a Civil Case.

X Corp. is an American multinational company with its principal place of business located at 1355 Market Street, Suite 900, San Francisco, California 94103. Kim Decl. ¶ 8, Ex. 1. X Corp. owns and operates X (formerly Twitter), which is one of the world’s largest social media platforms where users can post messages, upload images and videos, and share comments.⁵ To post on the X platform, users need to log into their X account after they initially

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⁵ See Fed. R. Evid. 201(b) (the information provided about X Corp. and the X platform (formerly known as Twitter) are generally known within the court’s jurisdiction, or can be accurately and readily verified from the sources noted below whose accuracy cannot be reasonably questioned); Wikipedia, the Free Encyclopedia, X Corp., at <https://en.wikipedia.org/wiki/Twitter> (last visited July 10, 2024).

1 create an X handle.⁶

2 Without knowing the real identity of the X User, the Applicant is unable to serve the civil
3 complaint on the X User and thus cannot proceed with the Civil Matter. Choi Decl. ¶ 13; Kim
4 Decl. ¶ 7. The subpoena is narrowly tailored to seek documents from X Corp. that will reveal the
5 X User's identity through his or her PII in the subject X account. Kim Decl. ¶¶ 7, 13.

6 III. JURISDICTION AND VENUE

7 This Court has subject matter jurisdiction under 28 U.S.C. § 1331 because this
8 Application is made under 28 U.S.C. § 1782(a). Venue in this district is proper under 28 U.S.C. §
9 1391 and 28 U.S.C. § 1782(a) because the party from whom discovery is sought "resides or is
10 found" in this district, as discussed herein.

11 IV. LEGAL STANDARD

12 This Court is authorized to grant a Section 1782 application "where three general
13 requirements are satisfied: (1) the person(s) from whom the discovery is sought 'resides or is
14 found' in the district of the district court where the application is made; (2) the discovery is 'for
15 use in a proceeding in a foreign or international tribunal'; and (3) the application is made by a
16 foreign or international tribunal or 'any interested person.'" *Khrapunov v. Prosyankin*, 931 F.3d
17 922, 925 (9th Cir. 2019); *see also* 28 U.S.C. § 1782(a).

18 In *Intel Corp. v. Advanced Micro Devices, Inc.*, the Supreme Court identified four factors
19 that district courts should consider when exercising their discretion to grant Section 1782
20 discovery applications:

21 [1] whether "the person from whom discovery is sought is a participant in the
22 foreign proceeding"; [2] "the nature of the foreign tribunal, the character of the
23 proceedings underway abroad, and the receptivity of the foreign government or
24 the court or agency abroad to U.S. federal-court judicial assistance"; [3] whether
the request "conceals an attempt to circumvent foreign proof-gathering
restrictions or other policies of a foreign country or the United States"; and [4]
whether the request is "unduly intrusive or burdensome."

25 *In re Premises Located at 840 140th Ave. NE, Bellevue, Wash.*, 634 F.3d 557, 563 (9th Cir. 2011)
26 (quoting *Intel Corp. v. Advanced Micro Devices, Inc.*, 542 U.S. 241, 264-65 (2004)).

27 _____
28 ⁶ X Help Center, *Signing up with X* available at <https://help.twitter.com/en/using-x/create-x-account> (last visited
July 10, 2024).

1 In exercising this discretion, district courts consider the twin aims of the statute:
 2 “providing efficient assistance to participants in international litigation, and encouraging foreign
 3 countries by example to provide similar assistance to our [U.S.] courts.” *Intel*, 542 U.S. at 252.
 4 “Section 1782 is a provision for assistance to tribunals abroad. It does not direct United States
 5 courts to engage in comparative analysis to determine whether analogous proceedings exist [in
 6 the U.S.].” *Id.* at 263.

7 V. ARGUMENT

8 A. This Application Meets All of the Statutory Requirements of Section 1782

9 As set forth herein, this Application meets the requirements of Section 1782.

10 First, X Corp. “resides” or “is found” in this district within the meaning of Section 1782,
 11 because its principal place of business is San Francisco, California, which is located in this
 12 judicial district. Kim Decl. ¶ 8, Ex. 1; *see also Hey, Inc. v. Twitter, Inc.*, No. 22-mc-80034-DMR,
 13 2022 WL 1157490, at *3 (N.D. Cal. Apr. 19, 2022) (“Twitter’s headquarters are in San
 14 Francisco, California, which is in this district.”).

15 Second, the Applicant seeks discovery to proceed with the Civil Matter in Korea. Kim
 16 Decl. ¶¶ 7, 13. A proceeding in the foreign jurisdiction need only be “within reasonable
 17 contemplation,” rather than be “pending” or “imminent,” to satisfy this second statutory
 18 requirement. *Intel*, 542 U.S. at 259. Here, the Applicant has brought a civil action against the X
 19 User in Korea and is seeking the X User’s identity to proceed with the Civil Matter. Kim Decl.
 20 ¶¶ 7, 13; *see also In re Request for Jud. Assistance from Seoul Cent. Dist. Ct.*, No. 23-mc-80016-
 21 BLF, 2023 WL 2394545, at *3 (N.D. Cal. Mar. 7, 2023) (finding the second statutory factor met
 22 where discovery was sought for use in “a civil proceeding in a foreign tribunal—the Seoul
 23 Central District Court”).

24 Third, the Applicant brought the Civil Matter because the anonymous X User committed
 25 acts against them that constitute violations of civil law. Kim Decl. ¶¶ 5-6. Thus, the Applicant
 26 satisfies the third statutory requirement of being an “interested person.” *Intel*, 542 U.S. at 256-57
 27 (“No doubt litigants are included among, and may be the most common example of, the
 28 ‘interested person’ who may invoke [Section] 1782”); *see also Akebia Therapeutics, Inc. v.*

1 *FibroGen, Inc.*, 793 F.3d 1108, 1110 (9th Cir. 2015) (an “interested person” includes “litigants
2 before foreign or international tribunals ... as well as any other person whether he [or she] be
3 designated by foreign law or international convention or merely possess a reasonable interest in
4 obtaining [judicial] assistance.”).

5 **B. Each of the *Intel* Discretionary Factors Weigh in Favor of Granting this Application**

6 The discretionary factors identified by the Supreme Court in *Intel* weigh heavily in favor
7 of this Court granting this Application.

8 **1. X Corp. is a Nonparticipant in the Korean Civil Matter**

9 The first factor is whether “the person from whom discovery is sought is a participant in
10 the foreign proceeding.” *Intel*, 542 U.S. at 264. The Supreme Court recognized that the district
11 courts’ assistance is needed the most when the evidence is sought from a non-participant in a
12 foreign proceeding. *Id.* “[N]onparticipants in the foreign proceeding may be outside the foreign
13 tribunal’s jurisdictional reach; hence, their evidence, available in the United States, may be
14 unobtainable absent § 1782(a) aid.” *Id.*

15 X Corp. is not named as a party in the Korean Civil Matter. Kim Decl. ¶ 8. Since X Corp.
16 and the requested documents are located in this district, which is outside the Korean courts’
17 jurisdictional reach over nonparticipants, evidence available from X Corp. through a United
18 States federal court proceeding is unobtainable by the Applicant in Korea absent Section
19 1782(a). *Id.* ¶ 8; Ex. 1; *see Intel*, 542 U.S. at 264. Accordingly, this first factor weighs heavily in
20 favor of granting this Application.

21 **2. Korean Tribunals are receptive to U.S. judicial assistance**

22 Next, the Supreme Court requires this Court to consider “the nature of the foreign
23 tribunal, the character of the proceedings underway abroad, and the receptivity of the foreign
24 government or the court or agency abroad to U.S. federal-court judicial assistance.” *Intel*, 542
25 U.S. at 264. “This factor focuses on whether the foreign tribunal is willing to consider the
26 information sought.” *In re Ex Parte Application of Varian Med. Sys. Int’l AG*, No. 16-mc-80048-
27 MEJ, 2016 WL 1161568, at *4 (N.D. Cal. Mar. 24, 2016). There is a long history of Korean
28 tribunals requesting and receiving U.S. judicial assistance under Section 1782. *See In re Request*

1 *for Judicial Assistance from Seoul Dist. Criminal Court, Seoul, Korea*, 428 F.Supp. 109, 114
 2 (N.D. Cal. 1977) (granting Seoul District Criminal Court’s request for bank records); *In re*
 3 *Request for Int’l Judicial Assistance from the Nat’l Court Admin. of the Republic of Korea*, No.
 4 C15-80069 MISC LB, 2015 WL 1064790, at *1-2 (N.D. Cal. Mar. 11, 2015) (granting Korean
 5 National Court Administration’s request for information and documents from Google, Inc.); *In re*
 6 *Request for Jud. Assistance from Seoul Cent. Dist. Ct.*, No. 23-mc-80016-BLF, 2023 WL
 7 2394545, at *1 (N.D. Cal. Mar. 7, 2023) (granting Seoul Central District Court’s request seeking
 8 information to identify four anonymous Instagram users who defamed or insulted a plaintiff in a
 9 Korean civil proceeding).

10 Additionally, in “the absence of authoritative proof that a foreign tribunal would reject
 11 evidence obtained with the aid of Section 1782,” courts tend to “err on the side of permitting
 12 discovery.” *See In re Ex Parte Application of Varian Med. Sys. Int’l AG*, 2016 WL 1161568, at
 13 *4 (N.D. Cal. Mar. 24, 2016); *see also Palantir Techs., Inc. v. Abramowitz*, 415 F.Supp.3d 907,
 14 915 (N.D. Cal. 2019) (citation omitted). In other words, discovery is favored unless there is clear
 15 evidence that the foreign tribunal would reject the evidence sought.

16 Here, the Korean courts are receptive to the U.S. federal court’s assistance in discovery
 17 matters, including through Section 1782 requests for information to identify persons who
 18 anonymously publish statements on social media platforms. Kim Decl. ¶ 9. By contrast, there are
 19 no Korean laws or policies that limit or otherwise prevent the U.S. federal courts from assisting
 20 the Applicant obtain discovery in order to identify the X User in the manner proposed in this
 21 Application. *Id.* ¶¶ 10-11. As stated above, Korean courts have a history of seeking judicial
 22 assistance from federal courts and courts in this district have in the past granted Section 1782
 23 discovery for use in Korean court proceedings. For the foregoing reasons, this second factor
 24 weighs heavily in favor of granting this Application.

25 **3. The Applicant is not seeking to circumvent any restrictions or policies on proof**
 26 **gathering**

27 The third factor directs the court to consider “whether the [Section] 1782(a) request
 28 conceals an attempt to circumvent foreign proof-gathering restrictions or other policies of a

foreign country or the United States.” *Intel*, 542 U.S. at 265. As a court in this district previously held, “[t]his factor will weigh in favor of discovery if there is ‘nothing to suggest that [the applicant] is attempting to circumvent foreign proof gathering restrictions.’” *In re Starship Entm’t Co., Ltd.*, No. 23-mc-80147-BLF, 2023 WL 3668531, at *3 (N.D. Cal. May 24, 2023) (quoting *In re Google Inc.*, No. 14-mc-80333-DMR, 2014 WL 7146994, at *3 (N.D. Cal. Dec. 15, 2014)).

a. The Applicant is Seeking PII to Proceed with the Civil Matter

In Korea, the civil courts conduct service of process on defendants based on the information provided by plaintiffs. Kim Decl. ¶ 7. Here, the Applicant is not attempting to circumvent any “foreign proof-gathering restrictions” or “other policies” of Korea or the United States. Kim Decl. ¶ 12. In fact, the opposite is true. This Section 1782 Application is the only way for the Applicant to obtain the X User’s information. *Id.* ¶¶ 7, 13; Choi Decl. ¶ 10. The Applicant’s Korean counsel confirms this information is needed to pursue the Civil Matter in Korea and anticipates that the requested PII will be admissible in the Korean court. Kim Decl. ¶¶ 7, 12-13.

b. The First Amendment Does Not Apply

In *United States v. Google LLC*, — F. Supp. 3d —, 2023 WL 5725518, at *1-2 (N.D. Cal. Sept. 5, 2023), a court in this district analyzed the issue of the First Amendment in the context of a Section 1782 request seeking an anonymous individual’s PII (“Name, Gender, Phone Number, Date of Birth, etc.”) from Google related to a South Korean civil action.

First, the court recognized that “Foreign citizens who are outside United States territory . . . do not possess any rights under the United States Constitution.” *United States v. Google LLC*, 2023 WL 5725518, at *12 (citations omitted).

Second, “[t]he court f[oun]d persuasive several recent opinions concluding that . . . U.S. free-speech principles should not be determinative factors” in evaluating the third discretionary factor “where the evidence does not indicate that the anonymous speakers are entitled to First Amendment protections.” *Id.* at *12-13 (citing *Hey, Inc. v. Twitter, Inc.*, No. 22-mc-80035-DMR, 2023 WL 3874022, at *7-8 (N.D. Cal. June 6, 2023) (holding the third discretionary

factor did not weigh against granting § 1782 application seeking the identity of anonymous speaker, where there was no evidence indicating that the speaker was entitled to First Amendment protections); *Takagi v. Twitter, Inc.*, No. 22-mc-80240-VKD, 2023 WL 1442893, at *7 (N.D. Cal. Feb. 1, 2023) (rejecting assertion that a subpoena seeking identity of anonymous speaker circumvented the U.S.’ “pro-free speech policy,” because “First Amendment protections do not apply to non-citizens outside the territory of the United States”); *Zuru, Inc. v. Glassdoor, Inc.*, 614 F.Supp.3d 697, 707 (N.D. Cal. 2022) (“Although the United States may have a pro-free-speech policy, . . . it doesn’t reflect a U.S. policy of protecting free speech around the world.”)).

As set forth in the declarations supporting this Application, the words and phrases used by the X User in the original Korean language posts indicate that the X User is highly likely to be a native Korean speaker and reside in Korea. Choi Decl. ¶ 11; Kim Decl. ¶ 4. Moreover, there is nothing to indicate that the statements were made by a U.S. citizen. Choi Decl. ¶ 11; Kim Decl. ¶ 4.

Third, the court noted that the applicant alleged that the anonymous individual knowingly made false statements about the applicant, which if taken as true “likely would not be protected by the First Amendment even in the United States.” *United States v. Google LLC*, 2023 WL 5725518, at *13 (citing *In re Tagami*, No. 21-mc-80153-JCS, 2021 WL 5322711, at *3 n.1 (N.D. Cal. Nov. 16, 2021); see *Milkovich v. Lorain Journal*, 497 U.S. 1, 22 (1990) (discussing the necessary balance between ensuring “First Amendment protection for defendants in defamation actions” and recognizing society’s “pervasive and strong interest in preventing and redressing attacks upon reputation”)). Here, the Applicant alleges defamation, harassment and false statements. Choi Decl. ¶ 12; Kim Decl. ¶¶ 5-6.

For the foregoing reasons, the third factor weighs heavily in favor of granting this Application.

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1 **4. The Applicant’s request is not unduly intrusive or burdensome**

2 The last factor is whether the discovery requested is “unduly intrusive or burdensome.”
3 *Intel*, 542 U.S. at 265. The Supreme Court noted that requests that are too burdensome *in part*
4 may be “trimmed” so that the requests can be partially authorized. *Id.*

5 While requests that seek confidential information or are broad “fishing expedition” for
6 irrelevant information may be unduly intrusive or burdensome, *In re Ex Parte Application of*
7 *Qualcomm Inc.*, 162 F.Supp.3d 1029, 1043 (N.D. Cal. 2016), the Applicant’s requests are narrow
8 in scope and number. The Applicant’s proposed subpoena is limited to requests for documents
9 about the X User(s)’ name(s), date(s) of birth, gender(s), phone number(s), and address(es),
10 which the Applicant need to proceed with the Civil Matter and which X Corp. maintains in the
11 regular course of business. *See* Ex. A; Kim Decl. ¶ 13; *see also United States v. Google LLC*,
12 2023 WL 5725518, at *15; *In re Frontier Co., Ltd.*, No. 19-mc-80184-LB, 2019 WL 3345348, at
13 *5 (N.D. Cal. Jul. 25, 2019) (name, address, email, phone number, and name on credit cards,
14 etc.); *In re Med. Corp. Seishinkai*, No. 21-mc-80160-SVK, 2021 WL 3514072, at *4-5 (N.D.
15 Cal. Aug. 10, 2021) (granting discovery from Google under Section 1782); *In re Request for Jud.*
16 *Assistance from Seoul Cent. Dist. Ct.*, No. 23-mc-80016-BLF, 2023 WL 2394545, at *4 (N.D.
17 Cal. Mar. 7, 2023) (allowing discovery of information from Meta regarding the names, dates of
18 birth, email addresses, cell phone numbers, and IP addresses associated with specific user
19 accounts where the request was “narrowly tailored to seeking the information that is necessary to
20 identify the identity of the putative defendants”); *In re Bleach, Inc.*, No. 5:24-mc-80021-PCP,
21 2024 WL 1898450, at *2 (N.D. Cal., Apr. 30, 2024) (authorizing service of a subpoena on X
22 Corp. for an anonymous X user’s “basic identifying information”).

23 Additionally, judges in this district have previously recognized that a subpoena that does
24 not seek the content of any communications associated with an account at issue does not violate
25 the Stored Communications Act. *See, e.g., Optiver Australia Pty. Ltd. v. Tibra Trading Pty. Ltd.*,
26 Case No. 12-cv-80242 EJD, 2013 WL 256771, at *2 (N.D. Cal. Jan. 23, 2013) (discussing
27 prohibitions of the Stored Communications Act, 18 U.S.C. § 2701 et seq.); *In re Ex Parte*
28 *Application of Akiko Isogai*, Case No. 22-mc-80327 SVK, 2023 WL 3035418, at *3 (N.D. Cal.

Jan. 20, 2023) (“the subpoena seeks only the names and addresses of the person(s) whose credit card is associated with the Google accounts and does not seek disclosure of credit card numbers or any other sensitive information.”); *In re Med. Corp. H&S*, No. 19-MC-80058-VKD, 2019 WL 1230440, at *4 (N.D. Cal. Mar. 15, 2019) (limiting a subpoena for account-user credit card information to the name and address). Here, the proposed subpoena does not seek the content of any communications, nor does it seek sensitive financial information (e.g., credit card numbers, bank account numbers, or electronic commerce account numbers).

Accordingly, this last factor weighs in favor of the Applicant because its requests for documents are narrow, are not intrusive or burdensome, and X Corp. has a right to object, or seek a protective order.

VI. CONCLUSION

For the reasons stated above, the Applicant respectfully requests this Court exercise its discretion under Section 1782 to grant this Application and permit the Applicant to issue the proposed subpoena to X Corp. in aid of the Korean civil proceeding.

Dated: July 11, 2024

STREAM KIM HICKS WRAGE & ALFARO, PC.

/s/ 
 Eugene Kim
 Attorneys for Applicant
 HYBE Co., Ltd.

UNITED STATES DISTRICT COURT

for the

Northern District of California

In re Ex Parte Application of HYBE Co., Ltd.

Plaintiff

v.

Defendant

Civil Action No.

**SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION**

To: X Corp.

(Name of person to whom this subpoena is directed)

☒ **Production:** **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material: See Attachment A

Place: By email to: eugene.kim@streamkim.com, or
By mail to: Eugene Kim, 3477 McKee Rd #1012
San Jose, CA 95127

Date and Time:

☐ **Inspection of Premises:** **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:

Date and Time:

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: _____

CLERK OF COURT

OR

*Signature of Clerk or Deputy Clerk**Attorney's signature*

The name, address, e-mail address, and telephone number of the attorney representing *(name of party)* _____
HYBE Co., Ltd. _____, who issues or requests this subpoena, are:

Eugene Kim, 3403 Tenth Street, Suite 700, Riverside, CA 92501; eugene.kim@streamkim.com; (951) 783-9470

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things or the inspection of premises before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. _____

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)*

I received this subpoena for *(name of individual and title, if any)* _____
 on *(date)* _____.

☐ I served the subpoena by delivering a copy to the named person as follows: _____

_____ on *(date)* _____; or

☐ I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
 tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of
 \$ _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)**(c) Place of Compliance.**

(1) For a Trial, Hearing, or Deposition. A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) For Other Discovery. A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) Contempt.

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

ATTACHMENT A

I. Definitions

- A. The term “Document” or “Documents” shall mean a writing, as defined in Rule 34(a) of the Federal Rules of Civil Procedure and related Rule 1001 of the Federal Rules of Evidence, and includes the original or a copy of drawings, graphs, charts, photographs, sound recordings, images, other data compilations and electronically stored information, and every other means of recording upon any tangible thing and form of communicating or representation, including letters, words, pictures, sounds, or symbols, or combination of them.
- B. The term “X Account” means the X Corp. (formerly Twitter) account(s) registered or otherwise linked to the person(s) who created, uses and/or otherwise logs in to the X handle “@guiltyarchive” which is accessible from the URL <https://twitter.com/guiltyarchive>.

II. Requests for Production

- 1. Documents sufficient to identify the name(s), date(s) of birth, gender(s), phone number(s), and address(es) of the person(s) who created, uses and/or otherwise logs in to the X Account.
- 2. Documents sufficient to identify the name(s), date(s) of birth, gender(s), phone number(s), and address(es) of the person(s) with credit card(s), bank account(s) and/or other electronic commerce details registered with the X Account.

This request does not seek the actual credit card numbers, bank account numbers or the electronic commerce account numbers or passwords, and it does not seek any financial transaction information.